IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

WP(C).No. 216 OF 2007(A)

PETITIONER:

RAJENDRA KUMA PUROHIT, PROPRIETOR,
BRIGHT GLASS TRADERS, YOGASALA ROAD,
KANNUR.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS:

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1. THE ASSISTANT COMMISSIONER (K.V.A.T.)
COMMERCIAL TAXES, SPECIAL CIRCLE,
KANNUR.

2. THE DEPUTY COMMISSIONER (APPEALS)
KOZHIKODE.

3. INSPECTING ASSISTNT COMMISSIONER,
COMMERCIAL TAXES, KANNUR.

GOVT. PLEADER SRI. JULIAN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 3.1.2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 216 OF 2007

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DATED THIS, THE 3RD DAY OF JANUARY, 2007

J U D G M E N T

Petitioner is an assessee under the Kerala General Sales Tax Act. For the assessment year 2001-02 he was originally assessed to tax as per Ext.P1 order, as per which he had paid an excess amount of Rs.14,533/- which was ordered to be adjusted against the balance CST for year 2001-02. Subsequently, by Ext.P2 order, the same was revised as per which the total balance of tax due was Rs.2,19,045/- + interest thereon. However, while passing Ext.P2 order, an amount of Rs. 1,89,254.50 was included as short collection of KGST. But the petitioner produced evidence to show that he had already paid the said tax and there was no short collection. Accordingly, Ext.P3 rectification order was passed deleting the amount of Rs. 1,89,255/- and the final dues as determined in Ext.P3 would show that his liability was reduced to Rs.31,016/- towards tax and Rs. 27,294/- towards interest. Petitioner has preferred an appeal against Ext.P2 before the Deputy Commissioner as evidenced by Ext.P4 along with Ext.P5 stay petition. In the meantime, Ext.P7 (A) revenue recovery notice was issued

to him, which is produced along with I.A. 127/2007, in substitution of Ext.P7, wrongly produced. It is the contention of the petitioner that because of some penalty proceedings huge additions were made while making assessment and substantial amounts have been paid as could be seen from Ext.P3 order of rectification. He prays that the revenue recovery proceedings initiated be stayed and a direction be issued to the second respondent appellate authority to consider and dispose of his appeal.

2. Heard learned Government Pleader also. In the facts and circumstances, there will be an interim stay of further proceedings pursuant to Ext.P7(A) for collection of balance tax until the disposal of the appeal filed by the petitioner. Since a stay is already granted in favour of the petitioner, expeditious disposal of the appeal is necessary and therefore, the appellate authority shall take up the appeal out of turn and consider and dispose of the same in accordance with law, within a period of three months.

The writ petition is disposed of as above.

Issue photo copy of this judgment to both sides.

P.R. RAMAN,
JUDGE.

knc/-